

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-909

February 17, 2000

MAINE PUBLIC UTILITIES COMMISSION  
Investigation Into the Rates of Unitel, Inc.  
Pursuant to 35-A M.R.S.A. § 7101-B

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order, we approve a Stipulation which resolves all of the issues in the above-captioned matter. The Stipulation provides that Unitel, Inc. (Unitel) may file a general rate proceeding for rates, including access rates, to be effective on or after May 30, 2001. In establishing the rates, the annual revenue requirements of Unitel will be reduced by an Annual Amortization Amount to be determined by dividing \$400,000 by the years of amortization.

**II. BACKGROUND**

On May 27, 1997, the Maine Legislature enacted 35-A M.R.S.A. § 7101-B, which required the Commission to establish intrastate access rates for local exchange carriers based on their interstate access rates as established by the Federal Communications Commission (FCC) by May 30, 1999, and every two years thereafter. On December 19, 1997, we adopted Section 8(J) of Chapter 280 of our Rules, which required Unitel (and all other independent telephone companies (ITCs)) to reduce its intrastate access rates by 40% of the difference between its existing rates and the level of the interstate access rates by May 30, 1998.

On January 14, 1998, Unitel filed its initial schedule of intrastate access rates (Docket No. 98-033), and on March 18, 1998, Unitel filed a revised schedule of intrastate access rates (Docket No. 98-212). On May 27, 1998, the Commission approved Unitel's initial schedule of intrastate access rates, which were already at or below the level of interstate access rates, as determined on the basis of the NECA-pool disbursements. After the initial rate reductions for the ITCs were concluded, the Commission Staff and the Telephone Association of Maine ("TAM") began informal discussions to attempt to resolve issues regarding the access rate reductions planned for May 30, 1999. In October 1998, ITCs provided the Staff with earnings analyses of the impact of the further reductions. The information was provided in an informal manner to facilitate discussions and negotiations between the Staff and the ITCs.

On November 24, 1998, we opened formal investigations into the rates of each ITC, including Unitel. The Office of the Public Advocate (OPA), Bell Atlantic and TAM subsequently petitioned to intervene in this case and all three petitions were granted. On January 28, 1999, we issued our Interim Order in this case as well as in all of the other ITC investigations. The Interim Order required Unitel to reduce its rates to the NECA Pool Disbursement levels by May 30, 1999. It also stated that it was our goal to reduce access rates to NECA Tariff levels by May 31, 2001.

On December 3, 1998, Unitel filed its revised rate schedule containing its intrastate access rates to complete the reduction in access rates in accordance with Section 8(J) of Chapter 280 of the Commission's Rules, to go into effect on January 4, 1999. The Commission allowed Unitel's revised Access Rate Tariff to go into effect on January 4, 1999. On January 26, 1999, the Staff conducted a Technical Conference in Docket No. 98-909 to discuss information regarding Unitel. On February 2, Unitel had a follow-up meeting with the Staff and the Public Advocate to discuss information regarding access rate reductions. In response to a Staff request, Unitel filed backup data to support Unitel's proposed filing on March 25, 1999. On April 5, 1999, a conference call was held between Unitel and the Staff regarding the backup information which was provided to the Staff.

On December 9, 1999, Unitel provided the Staff and the Public Advocate with an updated analysis of the impact of access rate reductions. On January 4, 2000, a conference call was held among Unitel, the Staff and the Public Advocate to discuss the information and to explore possible resolution of the issues in this case. These discussions produced the resolution contained in this Stipulation.

### **III. DECISION**

#### **1. Standard**

In reviewing a stipulation submitted by the parties to a proceeding, we must consider:

1. whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. whether the process that led to the stipulation was fair to all parties; and
3. whether the stipulated result is reasonable and is not contrary to legislative mandate.

See Consumers Maine Water Co., Proposed General Rate Increase of Bucksport and Hartland Divisions, Docket No. 96-739 (Me. P.U.C. July 3, 1997). We have also

recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. Id.

## 2. Discussion

First, we find that the fact that the OPA signed the Stipulation and that Bell Atlantic and TAM did not object to it provides sufficient evidence that there is no appearance or reality of disenfranchisement. The OPA represents the public before the Commission and thus, by signing the Stipulation, indicates its belief that the Stipulation benefits ratepayers. Bell Atlantic will likely be the biggest payer of Unitel's access rates and thus, by not objecting to the Stipulation, indicates that the Stipulation adequately addresses its, as well as other access payers', concerns.

Second, based upon our knowledge of our staff's participation in the process that led to the stipulation, we find that it was fair to all parties. All meetings were noticed to all parties and all parties were given an opportunity to meaningfully participate in the discussions that led to the Stipulation. We find this process inherently fair.

Third, we find that the stipulated result is reasonable and complies with the legislative mandate found in 35-A M.R.S.A. § 7101-B. The most pertinent provisions of the Stipulation are as follows:

Access rate reduction. While the Stipulation does not specify the access rate Unitel will charge after May 30, 2001, it recognizes the Commission's stated goal of lowering access rates to the NECA tariff 5 level by May 30, 2001.

Revenue Requirement Reduction. In establishing the rates to be implemented on May 30, 2001, the annual revenue requirements of the Telephone Company shall be reduced by an Annual Amortization Amount to be determined as follows:

$$\text{Annual Amortization Amount} = \frac{\text{Total Amortization Amount}}{\text{Amortization Period (yrs)}}$$

In any subsequent general rate proceeding in which rates are established to be effective for the period between May 30, 2001, and the expiration of the Amortization Period, the annual revenue requirement used to establish the rates during that period will be reduced by the applicable Annual Amortization Amount, until the end of the Amortization Period.

Total Amortization Amount. The Total Amortization Amount will be \$400,000.

Amortization Period. The Amortization Period to be used for purposes of the rates to be implemented on May 30, 2001 will be between 3 and 5 years. If

the parties fail to agree on the Amortization Period, a 5-year period will be used, in which event the Amortization Period will end on May 29, 2006.

We find that, taken together, these provisions are reasonable and promote the public interest.

Accordingly, we

O R D E R

1. That the Stipulation attached as Attachment A and filed on January 28, 2000, is approved.

Dated at Augusta, Maine, this 17th day of February, 2000.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch

Nugent  
Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

PUBLIC UTILITIES COMMISSION,  
Re: Investigation into Rates of  
Unitel, Inc. Pursuant to 35-A M.R.S.A.  
§7101-B

## STIPULATION

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Unitel, Inc. ("Unitel" or "Telephone Company"), the Office of the Public Advocate, the Telephone Association of Maine and New England Telephone and Telegraph Company, d/b/a Bell Atlantic (collectively "the Parties"), to the extent each has executed this Stipulation, hereby agree and stipulate as follows:

### I. PURPOSE

The purpose of this Stipulation is to settle all issues in this proceeding, to avoid a hearing on those issues raised in this case and to expedite the Commission's consideration and resolution of the proceeding. The provisions agreed to herein have been reached as a result of the review of information provided by Unitel in response to written and oral information requests and discussions among the parties and the Commission's Advisory Staff in this case.

### II. BACKGROUND

On May 27, 1997, the Maine Legislature enacted 35-A M.R.S.A. §7101-B, which required the Commission to establish intrastate access rates for local exchange carriers based on their interstate access rates by May 30, 1999, and every two years thereafter. The Commission subsequently adopted Section 8(J) of Chapter 280 of its Rules, which set forth the method by which Section 7101-B would be implemented. As a preliminary step towards achieving this goal, Section 8(J) required all independent telephone companies ("ITCs"), including Unitel, to reduce their intrastate access rates by 40% of the difference between their existing rates and the level of the interstate access rates by May 30, 1998.

On January 14, 1998, Unitel filed its initial schedule of intrastate access rates (Docket No. 98-033), and on March 18, 1998, Unitel filed a revised schedule of intrastate access rates (Docket No. 98-212). On May 27, 1998, the Commission approved Unitel's initial schedule of intrastate access rates, which were already at or below the level of interstate access rates, as determined on the basis of the NECA-pool disbursements. After the initial rate reductions for the ITCs were concluded, the Commission Staff and the

Telephone Association of Maine ("TAM") began informal discussions to attempt to resolve issues regarding the access rate reductions planned for May 30, 1999. In October, 1998, ITCs provided the Staff with earnings analyses of the impact of the further reductions. The information was provided in an informal manner to facilitate discussions and negotiations between the Staff and the ITCs.

On November 24, 1998, the Commission opened formal investigations into the rates of each of the ITCs, including Unitel. The purpose of the investigation, as set forth by the Commission, was as follows:

As required by statute, Unitel's intrastate access rates must be reduced to the interstate level or lower no later than May 30, 1999. This investigation will consider the potential financial impact upon the Company from this change, and may examine other factors, such as changes to basic local exchange rates or the need for a state universal service fund, that may be needed to offset all or a part of the revenue effect of access rate reductions. Any adjustment to revenues will be based on an assessment of amounts needed to allow the Company an opportunity to earn a fair rate of return.

Investigation Into Rates of Unitel, Inc. Pursuant to 35-A M.R.S.A. § 7101-B, Docket No. 98-909, Notice of Investigation (November 24, 1998), at 2. The Office of the Public Advocate ("OPA"), Bell Atlantic and TAM subsequently petitioned to intervene in Docket No. 98-909 on December 2, 1998, December 3, 1998, and December 22, 1998, respectively. The Commission granted all three petitions to intervene. On December 22, 1998, a Case Conference was held in all of the cases of all ITCs. Also on December 22, 1998, TAM filed a Motion for a Protective Order in the Access Cases. The Protective Order was issued by the Hearing Examiner on January 11, 1999.

On January 28, 1999, the Commission issued its Interim Order in the Access Cases which stated the goal that companies would be required to reduce access rates as necessary to achieve intrastate access rates at NECA pool disbursement levels by May 30, 1999, and that companies would be required to further reduce intrastate access rates to NECA Tariff levels over the two years following May 30, 1999. The Interim Order also stated that:

We expect that the ITCs will continue to participate fully in the discovery conferences conducted by Staff. We are hopeful that after further discussions, the ITCs and the other parties will propose stipulated transition plans for our review.

On December 3, 1998, Unitel filed its revised rate schedule containing its intrastate access rates to complete the reduction in access rates in accordance with Section 8(J) of Chapter 280 of the Commission's Rules, to go into effect on January 4, 1999. The Commission allowed Unitel's revised Access Rate Tariff to go into effect on January 4, 1999. On January 26, 1999, the Staff conducted a Technical Conference in Docket No. 98-909 to discuss information regarding Unitel. On February 2, Unitel had a follow-up meeting

with the Staff and the Public Advocate to discuss information regarding access rate reductions. In response to a Staff request, Unitel filed backup data to support Unitel's proposed filing on March 25, 1999. On April 5, 1999, a conference call was held between Unitel and the Staff regarding backup information which was provided to the Staff.

On December 9, 1999, Unitel provided the Staff and the Public Advocate with an analysis of the impact of access rate reductions. On January 4, 2000, a conference call was held among Unitel, the Staff and the Public Advocate to discuss the information and to explore possible resolution of the issues in this case. These discussions produced the resolution contained in this Stipulation.

### III. STIPULATION PROVISIONS

The Parties to this Stipulation agree and recommend that the Commission order as follows:

1. Goals and Objectives. The parties recognize that in its Interim Order the Commission stated its goal to establish intrastate access rates for ITCs at the level of the NECA Tariff No. 5 interstate switched access rates by May 30, 2001. The Commission further stated that an ITC was not precluded from making a showing that its particular circumstances warrant a deviation from the stated goal, and that the Commission would remain open to individual company circumstances and mindful of each company's reasonable rate of return. The parties also recognize the policy objectives of maintaining the affordability and comparability of the Telephone Company's rates for basic telephone service.

2. Access Rate Moratorium. From the date of the Commission's approval of this Stipulation until May 29, 2001, the Telephone Company shall not be required to reduce its intrastate access rates below their currently existing level as of the date of this Stipulation. The Telephone Company shall not be prohibited by this Stipulation from voluntarily reducing its intrastate access rates.



3. General Rate Proceeding for Unitel. The Parties agree that, from the date of the Commission's approval of this Stipulation until not earlier than August 30, 2000, neither the Telephone Company nor the Commission shall initiate a rate proceeding for the purpose of effectuating or investigating an increase or decrease of the Telephone Company's rates for basic exchange service and intrastate access service, provided that the Telephone Company shall not be prohibited by this Stipulation from voluntarily reducing its rates. No later than August 30, 2000, Unitel shall file revised rate schedules which will include Unitel's proposed reduction in access rates and any change in rates for basic exchange service, in accordance with the Goals and Objectives in Section 1 and the provisions of this Stipulation. The revised rate schedules shall contain a provision that they will not be implemented until May 30, 2001. The rate structure of the access rates to be implemented on May 30, 2001, shall be consistent with the rate structure requirements of Section 8(J) of Chapter 280 of the Commission's Rules, unless the requirements are waived by the Commission under Section 15 of Chapter 280.

4. Relationship of Access Rates and Basic Rates. The parties recognize that, to the extent to which the Commission's goal of reducing access rates to the NECA tariff level by May 30, 2001, conflicts with the goals of affordable and comparable rates, the parties and the Commission will explore and consider alternatives, including a smaller reduction in access rates, to a level above the NECA tariff level, and/or the implementation of a state universal service fund, in order that local rates can be maintained at an affordable and comparable level.

5. Revenue Requirement Reduction. In establishing the rates to be implemented on May 30, 2001, the annual revenue requirements of the Telephone Company shall be reduced by an Annual Amortization Amount to be determined as follows:

$$\text{Annual Amortization Amount} = \frac{\text{Total Amortization Amount}}{\text{Amortization Period (yrs)}}$$

In any subsequent general rate proceeding in which rates are established to be effective for the period between May 30, 2001, and the expiration of the Amortization Period, the annual revenue requirement used to establish the rates during that period shall be reduced by the applicable Annual Amortization Amount, until the end of the Amortization Period.

6. Total Amortization Amount. The Total Amortization Amount shall be \$400,000.

7. Amortization Period. The Amortization Period to be used for purposes of the rates to be implemented on May 30, 2001 shall be between 3 and 5 years. If the parties fail to agree on the Amortization Period, a 5-year period will be used, in which event the Amortization Period shall end on May 29, 2006.

8. Staff Presentation of Stipulation. The Parties to the Stipulation hereby waive any rights that they have under 5 M.R.S.A. § 9055 and related Commission Rules to the extent necessary to permit the Advisory Staff to discuss this Stipulation and the resolution of this case with the Commission at public deliberations, without the participation of any party, except in the case where a Party to this proceeding is opposing this Stipulation.

9. Record. The record on which the Commission may base its determination whether to accept and approve this Stipulation shall consist of this Stipulation, all documents provided in responses to data requests and information requests of the Advisory Staff and any other material furnished by the Advisory Staff to the Commission, either orally or in writing, at the time of the Commission's consideration of this proceeding.

10. Non-Precedential Effect. Except where it may be expressly noted herein, the Stipulation shall not be considered legal precedent, nor shall it preclude a party from raising any issues in any future proceeding or investigation on similar matters subsequent to this proceeding.

11. Stipulation as Integral Document. This Stipulation represents the full agreement between all parties to the Stipulation and rejection of any part of this Stipulation constitutes a rejection of the whole.

UNITEL, INC.

By: \_\_\_\_\_ Date  
Its: \_\_\_\_\_

OFFICE OF THE PUBLIC ADVOCATE

By: \_\_\_\_\_ Date  
Its: \_\_\_\_\_

TELEPHONE ASSOCIATION  
OF MAINE

By: \_\_\_\_\_ Date  
Its: \_\_\_\_\_

NEW ENGLAND TELEPHONE AND  
TELEGRAPH COMPANY,  
D/B/A BELL ATLANTIC

By: \_\_\_\_\_ Date  
Its: \_\_\_\_\_